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RECORDER'S OFFICE
LOS ANGELES COUNTY
CALIFORNIA
4:01 PM MAY 31 2001

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**Number of Parcels Shown** 



C: LogerBaker, Planning



RECORDING REQUESTED BY AND WHEN RECORDED MAIL TO

City Clerk City of Burbank P.O. Box 6459 Burbank CA 91510 01 0946641

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MEMORANDUM OF MINOR AMENDMENT TO THE DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF BURBANK AND ZELMAN RETAIL PARTNERS, INC.

THIS MEMORANDUM OF MINOR AMENDMENT to the Development Agreement for Planned Development No. 97-3 (the "Minor Amendment") entered into this 30 day of may, 2001, by and between the City of Burbank, a Charter City and a municipal corporation (hereinafter referred to as the "City") and ZELMAN RETAIL PARTNERS, INC., a California corporation (the "Developer") with reference to the following:

- A. City and Developer entered into a Development Agreement in conjunction with Planned Development No. 97-3 on the 21<sup>st</sup> day of September 2000 which became effective on October 17, 2000, relating to the development of the "Burbank Empire Center." The Burbank Empire Center is comprised of several subareas as defined in the Development Agreement.
- B. The Development Agreement in Section 5.01 specifically authorizes the City's Community Development Director to execute a minor amendment to the Development Agreement when the Director finds that the amendment is both minor and consistent with the Project Approvals, as that term is defined in the Development Agreement.
- C. Developer and City desire to enter into this minor amendment as to Subarea B only, to clarify the definition of an "extended stay hotel" use, which is a permitted use in that Subarea. The definition set forth herein is found to be minor and consistent with the Project Approvals, for the following reasons.
- D. The use list attached to the Conditions of Approval in the Development Agreement states that "hotel including incidental commercial uses" is a permitted use in Subarea B. No specific definition of "hotel", nor of any of the listed

uses is provided for in the Development Agreement. Condition of Approval No. B-1 states: "A maximum of 350 hotel rooms, which may be extended stay, will be permitted in Subarea B. .." (emphasis added) (Conditions of Approval, B-1).

- E. As a planned development zone, the City is authorized to establish any permitted use in that zone as long as such use is identified in the development agreement as permitted (BMC Sec. 31-19122).
- Burbank Municipal Code Section 31-203 defines hotels as "...a building, or portion thereof, containing public guest or dormitory rooms without cooking facilities, used or designed to be used by guests for compensation." An extended stay hotel is not defined in the Burbank Municipal Code ("BMC"). A definition of such use has been discussed in other projects to be a hotel that allows cooking facilities in the rooms, or, in other words, "a building, or portion thereof, containing public guest or dormitory rooms with cooking facilities, used or designed to be used by guests for compensation". As evidence of such usage, in 1998, the City Council approved Planned Development No. 97-4 to the then owner, Homestead Village. In that Planned Development, the applicant was authorized (and is presently constructing) an "extended stay hotel". Such project provides kitchen facilities in the hotel rooms. In that Planned Development conditions of approval, Section 31-207 of the BMC was cited only to emphasis that an extended stay hotel meant a hotel as defined in the BMC but with the deletion of the prohibition of cooking facilities. In that project's staff report to Planning Board and City Council, the hotel was repeatedly referred to as an "extended stay hotel". The Council recently approved another extended stay hotel project, Planned Development No. 99-4 in January, 2000, which permitted a 253 room full service "Marriott extended stay hotel". In that project, no definition of extended stay was provided. It is the position of the City that an extended stay hotel is as mentioned, a hotel (as defined in BMC Section 31-203) but with cooking facilities in the guest rooms.

NOW, THEREFORE, in consideration of the mutual promises, covenants and conditions contained herein, the parties hereto agree as follows:

- 1. The term "extended stay" hotel, which is a permitted use in Subarea B, is defined as follows: An extended stay hotel means: "a hotel, which is a building, or portion thereof, containing public guest or dormitory rooms, used or designed to be used by guests for compensation, with the following: 1) offering one or more hotel services; and 2) providing kitchen facilities of any nature in any or all of the guest rooms.
- 2. The terms and provisions of this Minor Amendment shall control and govern the rights, duties, and obligations of the parties. Except as modified and amended herein, the Development Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, this Minor Amendment to the Development Agreement has been executed by the parties as of the 30 day of \_\_\_\_\_\_\_\_, 2001.

"CITY"

CITY OF BURBANK, a charter city and a municipal corporation

By: Xun Xun Xun Xun Susan Georgino, Community Development Director

"DEVELOPER"

ZELMAN RETAIL PARTNERS, a California corporation

Passing it

ATTEST:

Judie Sarquiz, City Clerk

[Signature of Parties must be notarized as required by the County Recorder's Office. Please attach appropriate acknowledgements.]

OFFICIAL SEAL

APPROVED AS TO FORM FOR CITY Dennis A. Barlow, City Attorney

By: Mary F. Riley, Sr. Asst. City Attorney

## CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

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Commission # 1226250   Notary Public - Collifornia   Los Angeles County   My Comm. Expires Jun 26, 2003   Notary Public - Collifornia   Los Angeles County   My Comm. Expires Jun 26, 2003   Notary Public - Collifornia   Los Angeles County   My Comm. Expires Jun 26, 2003   Notary Public - Collifornia   Los Angeles County   My Comm. Expires Jun 26, 2003   Notary Public - Collifornia   Los Angeles County   My Comm. Expires Jun 26, 2003   Notary Public - Collifornia   Los Angeles County   My Comm. Expires Jun 26, 2003   Notary Public - Collifornia   Los Angeles County   My Comm. Expires Jun 26, 2003   Notary Public - Collifornia	personally appeared	Name(s) of Signer(s)
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AURA WADIWA Commission # 1226250 Notary Public - Collifornia Los Angeles County My Comm. Bories Jun 26, 2003  Place Notary Seal Above  OPTIONAL  Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.  Description of Attached Document Title or Type of Document:  Document Date:  5-30-01  Number of Pages:  Signer(s) Other Than Named Above:  Capacity(ies) Claimed by Signer Signer's Name:  Description of General  Attorney in Fact  Trustee  Guardian or Conservator  Other:  7 About a Part of Pages Seal Above  acknowledged to me that ne/she/fithey executed the same in (nightef/their authorized authority) and that in finished/their authority is signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s), or the entity		subscribed to the within instrument and
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Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.  Description of Attached Document Title or Type of Document: MinDY Amendment to Day. Agant  Document Date: 5-30-01 Number of Pages: 3  Signer(s) Other Than Named Above: Susan Georgi no  Capacity(ies) Claimed by Signer Signer's Name: Bernard Reiling Individual Corporate Officer — Title(s): President Partner— Limited General Attorney in Fact Trustee Guardian or Conservator Other: Table Associated Recommendation of this form to another document and couldness relying on the document and couldness relying to the docum		PTIONAI —
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## CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

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On May 30, 2001 , before me, Sh	naron Marotta, Notary Public  Name and Title of Officer (e.g., "Jane Doe, Notary Public")
personally appeared <u>Susan Georgino</u>	Name(s) of Signer(s)
	<ul> <li>□ personally known to me</li> <li>□ proved to me on the basis of satisfactory evidence</li> </ul>
SHARON MAROTTA Commission # 1268627 Notary Public - California Los Angeles County My Comm. Expires Jun 24, 2004	to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.
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